

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 3116 – HB 3880

March 4, 2010

SUMMARY OF BILL: Requires the Board of Claims to hear claims for compensation by persons granted declaratory judgments where it is determined by a court of competent jurisdiction that the policies and procedures relied upon by any state agency, department or institution to permanently terminate a person's participation or enrollment in a federally funded program were not promulgated as rules in accordance with the Uniform Administrative Procedures Act. Prohibits any resulting payable compensation to a claimant from exceeding \$100,000. Requires any such claim for compensation be filed with the Board no later than one year from the date the claimant is granted the declaratory judgment.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$100,000/Risk Management Fund

Assumptions:

- The fiscal impact of this bill is dependent upon multiple unknown factors such as the extent to which courts grant declaratory judgments in cases where termination of a person's participation or enrollment in a federally funded program was on the basis of rules not being promulgated in accordance with the Uniform Administrative Procedures Act, the number of additional claims that will be heard by the Board of Claims, the extent of compensation considered for any such claim, and the extent of compensation actually paid on additional claims.
- According to the Department of Human Services (DHS), additional claim payments from the Risk Management Fund are likely to occur due to state departments and agencies not having promulgated proper rules and regulations for every possible contingency that might allow vendors to be granted declaratory judgments by the courts.
- The Department of Treasury indicates that it does not have any data to determine the specific number of claims that will result due to this bill. However, the Department indicates an increase of expenditures from the Risk Management Fund.

- Given the extent of unknown factors, determining a precise fiscal estimate for this bill is difficult. Based on the information provided by DHS and Treasury, it is anticipated that expenditures from the Risk Management Fund will increase as a result of the Board of Claims hearing an additional number of claims that it would not otherwise consider. The extent of additional claim payments in any given year is unknown and difficult to quantify. However, the increase to expenditures from the Risk Management Fund is reasonably estimated to exceed \$100,000 per year.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized initial "J".

James W. White, Executive Director

/rnc